

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

## HOUSE BILL 2404

### AN ACT

AMENDING SECTIONS 12-119, 38-842, 38-847, 41-790, 41-796, 41-1304, 41-1304.05, 41-1712 AND 41-1713, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-794 AND 41-795, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ADMINISTRATION CAPITOL POLICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)



STATE OF ARIZONA

OFFICE OF THE GOVERNOR

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JANET NAPOLITANO  
GOVERNOR

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May 20, 2005

The Honorable Ken Bennett  
Senate President  
Arizona State Senate  
1700 West Washington Street  
Phoenix, Arizona 85007

Re: House Bill 2404: capitol police; transfer


Dear President Bennett:

Today I vetoed House Bill 2404, related to the transfer of the Capitol Police from the Department of Administration to the Department of Public Safety ("DPS").

House Bill 2404 does not appropriate any monies to facilitate the high cost of transferring a law enforcement agency from one Executive Department to another. Further, it does not address a number of other legal changes that would be required to make such a transfer work. For example, the bill fails to properly address the difference in the minimum qualifications of DPS and Capitol Police officers. It is not in the state's best interest to force DPS to absorb the additional costs and administrative difficulties associated with this transfer at this time.

For these reasons and others, I am vetoing House Bill 2404.

Yours very truly,

  
Janet Napolitano  
Governor

JN:TN/jm

cc: The Honorable Jim Weiers  
The Honorable Russell Pearce

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-119, Arizona Revised Statutes, is amended to  
3 read:

4 12-119. Facilities management

5 The supreme court may obtain OPERATIONAL AND MAINTENANCE ASSISTANCE  
6 from the department of administration ~~operational, maintenance~~ and security  
7 assistance FROM THE DEPARTMENT OF PUBLIC SAFETY for any supreme court  
8 facility or may employ personnel or contract for outside services for the  
9 operation, maintenance and security of such facility. The supreme court and  
10 division one of the court of appeals shall be housed in the Arizona courts  
11 building. FOR THE PURPOSES OF THIS SECTION, SECURITY DOES NOT MEAN SECURITY  
12 SERVICES RELATED TO BUILDING OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY  
13 THE DEPARTMENT OF ADMINISTRATION.

14 Sec. 2. Section 38-842, Arizona Revised Statutes, is amended to read:

15 38-842. Definitions

16 In this article, unless the context otherwise requires:

17 1. "Accidental disability" means a physical or mental condition which  
18 the local board finds totally and permanently prevents an employee from  
19 performing a reasonable range of duties within the employee's job  
20 classification and was incurred in the performance of the employee's duty.

21 2. "Accumulated contributions" means, for each member, the sum of the  
22 amount of the member's aggregate contributions made to the fund and the  
23 amount, if any, attributable to the employee's contributions prior to the  
24 member's effective date under another public retirement system, other than  
25 the federal social security act, and transferred to the fund minus the  
26 benefits paid to or on behalf of the member.

27 3. "Actuarial equivalent" means equality in present value of the  
28 aggregate amounts expected to be received under two different forms of  
29 payment, based on mortality and interest assumptions adopted by the fund  
30 manager. The fund manager may from time to time change the mortality and  
31 interest assumptions.

32 4. "Average monthly benefit compensation" means the result obtained by  
33 dividing the total compensation paid to an employee during a considered  
34 period by the number of months, including fractional months, in which such  
35 compensation was received. The considered period shall be the three  
36 consecutive years within the last twenty completed years of credited service  
37 which yield the highest average. In the computation under this paragraph a  
38 period of nonpaid or partially paid industrial leave shall be considered  
39 based on the compensation the employee would have received in the employee's  
40 job classification if the employee was not on industrial leave.

41 5. "Catastrophic disability" means a physical condition that is not an  
42 accidental disability, that the local board determines prevents the employee  
43 from totally and permanently engaging in any gainful employment and that  
44 results from a catastrophic physical injury incurred in the performance of  
45 the employee's duty.

1           6. "Certified peace officer" means a peace officer certified by the  
2 Arizona peace officers standards and training board.

3           7. "Claimant" means any member or beneficiary who files an application  
4 for benefits pursuant to this article.

5           8. "Compensation" means, for the purpose of computing retirement  
6 benefits, base salary, overtime pay, shift differential pay and holiday pay  
7 paid to an employee by the employer on a regular monthly, semimonthly or  
8 biweekly payroll basis and longevity pay paid to an employee at least every  
9 six months for which contributions are made to the system pursuant to section  
10 38-843, subsection D. Compensation does not include, for the purpose of  
11 computing retirement benefits, payment for unused sick leave, payment in lieu  
12 of vacation, payment for compensatory time or any other payment for fringe  
13 benefits.

14           9. "Credited service" means the member's total period of service prior  
15 to the member's effective date of participation, plus those compensated  
16 periods of the member's service thereafter for which the member made  
17 contributions to the fund.

18           10. "Depository" means a bank in which all monies of the system are  
19 deposited and held and from which all expenditures for benefits, expenses and  
20 investments are disbursed.

21           11. "Effective date of participation" means July 1, 1968, except with  
22 respect to employers and their covered employees whose contributions to the  
23 fund commence thereafter, the effective date of their participation in the  
24 system is as specified in the applicable joinder agreement.

25           12. "Effective date of vesting" means the date a member's rights to  
26 benefits vest pursuant to section 38-844.01.

27           13. "Eligible child" means the unmarried child of a deceased member who  
28 is under the age of eighteen or a full-time student who is under the age of  
29 twenty-three or under a disability which began before the child attained the  
30 age of twenty-three and who remains a dependent of the surviving spouse or  
31 guardian.

32           14. "Eligible groups" means only the following who are regularly  
33 assigned to hazardous duty:

34           (a) Municipal police officers who are certified peace officers.

35           (b) Municipal fire fighters.

36           (c) Paid full-time fire fighters employed directly by a fire district  
37 organized pursuant to section 48-803 or 48-804 with three or more full-time  
38 fire fighters, but not including fire fighters employed by a fire district  
39 pursuant to a contract with a corporation.

40           (d) State highway patrol officers who are certified peace officers.

41           (e) State fire fighters.

42           (f) County sheriffs and deputies who are certified peace officers.

43           (g) Fish and game wardens who are certified peace officers.

44           (h) Police officers who are certified peace officers and fire fighters  
45 of a nonprofit corporation operating a public airport pursuant to sections

1 28-8423 and 28-8424. A police officer shall be designated pursuant to  
2 section 28-8426 to aid and supplement state and local law enforcement  
3 agencies and a fire fighter's sole duty shall be to perform fire fighting  
4 services, including services required by federal regulations.

5 (i) Police officers who are certified peace officers and who are  
6 appointed by the Arizona board of regents.

7 (j) Police officers who are certified peace officers and who are  
8 appointed by a community college district governing board.

9 (k) State attorney general investigators who are certified peace  
10 officers.

11 (l) County attorney investigators who are certified peace officers.

12 (m) Police officers who are certified peace officers and who are  
13 employed by an Indian reservation police agency.

14 (n) Fire fighters who are employed by an Indian reservation fire  
15 fighting agency.

16 ~~(o) Police officers who are certified peace officers and who are~~  
17 ~~appointed by the department of administration.~~

18 ~~(p)~~ (o) Department of liquor licenses and control investigators who  
19 are certified peace officers.

20 ~~(q)~~ (p) Arizona department of agriculture officers who are certified  
21 peace officers.

22 ~~(r)~~ (q) Arizona state parks board rangers and managers who are  
23 certified peace officers.

24 ~~(s)~~ (r) County park rangers who are certified peace officers.

25 15. "Employee" means any person who is employed by a participating  
26 employer and who is a member of an eligible group but does not include any  
27 persons compensated on a contractual or fee basis. If an eligible group  
28 requires certified peace officer status and at the option of the local board,  
29 employee may include a person who is training to become a certified peace  
30 officer.

31 16. "Employers" means:

32 (a) Cities contributing to the fire fighters' relief and pension fund  
33 as provided in sections 9-951 through 9-971 or statutes amended thereby and  
34 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid  
35 fire fighters.

36 (b) Cities contributing under the state police pension laws as  
37 provided in sections 9-911 through 9-934 or statutes amended thereby and  
38 antecedent thereto, as of June 30, 1968 on behalf of their municipal  
39 policemen.

40 (c) The state highway patrol covered under the state highway patrol  
41 retirement system.

42 (d) The state, or any political subdivision thereof, including but not  
43 limited to towns, cities, fire districts, counties and nonprofit corporations  
44 operating public airports pursuant to sections 28-8423 and 28-8424, which has  
45 elected to participate in the system on behalf of an eligible group of public

1 safety personnel pursuant to a joinder agreement entered into after July 1,  
2 1968.

3 (e) Indian tribes which have elected to participate in the system on  
4 behalf of an eligible group of public safety personnel pursuant to a joinder  
5 agreement entered into after July 1, 1968.

6 17. "Fund" means the public safety personnel retirement fund, which is  
7 the fund established to receive and invest contributions accumulated under  
8 the system and from which benefits are paid.

9 18. "Fund manager" means the fund manager of the system, who are the  
10 persons appointed to invest and operate the fund.

11 19. "Local board" means the retirement board of the employer, who are  
12 the persons appointed to administer the system as it applies to their members  
13 in the system.

14 20. "Member" means any employee who meets all of the following  
15 qualifications:

16 (a) Who is either a full-time paid municipal police officer, a  
17 full-time paid fire fighter, a law enforcement officer who is employed by the  
18 state including the director thereof, a state fire fighter who is primarily  
19 assigned to fire fighting duties, a fire fighter or police officer of a  
20 nonprofit corporation operating a public airport pursuant to sections 28-8423  
21 and 28-8424, all ranks designated by the Arizona law enforcement merit system  
22 council, a state attorney general investigator who is a certified peace  
23 officer, a county attorney investigator who is a certified peace officer,  
24 ~~a police officer who is appointed by the department of administration and who~~  
25 ~~is a certified peace officer,~~ a department of liquor licenses and control  
26 investigator who is a certified peace officer, an Arizona department of  
27 agriculture officer who is a certified peace officer, an Arizona state parks  
28 board ranger or manager who is a certified peace officer, a county park  
29 ranger who is a certified peace officer, a person who is a certified peace  
30 officer and who is employed by an Indian reservation police agency, a fire  
31 fighter who is employed by an Indian reservation fire fighting agency or an  
32 employee included in a group designated as eligible employees under a joinder  
33 agreement entered into by their employer after July 1, 1968 and who is or was  
34 regularly assigned to hazardous duty.

35 (b) Who, on or after the employee's effective date of participation,  
36 is receiving compensation for personal services rendered to an employer or  
37 would be receiving compensation except for an authorized leave of absence.

38 (c) Whose employment with an employer commenced prior to attainment of  
39 age fifty.

40 (d) Whose customary employment is at least forty hours per week and  
41 for more than six months in a calendar year.

42 (e) Who has not attained age sixty-five prior to the employee's  
43 effective date of participation or who was over age sixty-five with  
44 twenty-five years or more of service prior to the employee's effective date  
45 of participation.

1        21. "Normal retirement date" means the first day of the calendar month  
2 immediately following an employee's completion of twenty years of service or  
3 the employee's sixty-second birthday and the employee's completion of fifteen  
4 years of service.

5        22. "Ordinary disability" means a physical condition which the local  
6 board determines will prevent an employee totally and permanently from  
7 performing a reasonable range of duties within the employee's department or a  
8 mental condition which the local board determines will prevent an employee  
9 totally and permanently from engaging in any substantial gainful activity.

10       23. "Pension" means a series of monthly amounts which are payable to a  
11 person who is entitled to receive benefits under the plan.

12       24. "Regularly assigned to hazardous duty" means regularly assigned to  
13 duties of the type normally expected of municipal police officers, municipal  
14 or state fire fighters, eligible fire district fire fighters, state highway  
15 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
16 fighters and police officers of a nonprofit corporation operating a public  
17 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
18 appointed by the Arizona board of regents or a community college district  
19 governing board, state attorney general investigators who are certified peace  
20 officers, county attorney investigators who are certified peace officers,  
21 ~~police officers who are appointed by the department of administration and who~~  
22 ~~are certified peace officers,~~ department of liquor licenses and control  
23 investigators who are certified peace officers, Arizona department of  
24 agriculture officers who are certified peace officers, Arizona state parks  
25 board rangers and managers who are certified peace officers, county park  
26 rangers who are certified peace officers, police officers who are certified  
27 peace officers and are employed by an Indian reservation police agency or  
28 fire fighters who are employed by an Indian reservation fire fighting  
29 agency. Those individuals who are assigned solely to support duties such as  
30 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
31 personnel, mechanics and dispatchers are not assigned to hazardous duty  
32 regardless of their position classification title. Since the normal duties  
33 ~~of municipal police officers, municipal or state fire fighters, eligible fire~~  
34 ~~district fire fighters, state highway patrol officers, county sheriffs and~~  
35 ~~deputies, fish and game wardens, fire fighters and police officers of a~~  
36 ~~nonprofit corporation operating a public airport pursuant to sections 28-8423~~  
37 ~~and 28-8424, police officers who are appointed by the Arizona board of~~  
38 ~~regents or a community college district governing board, state attorney~~  
39 ~~general investigators who are certified peace officers, county attorney~~  
40 ~~investigators who are certified peace officers, police officers who are~~  
41 ~~appointed by the department of administration and who are certified peace~~  
42 ~~officers, department of liquor licenses and control investigators who are~~  
43 ~~certified peace officers, Arizona department of agriculture officers who are~~  
44 ~~certified peace officers, Arizona state parks board rangers and managers who~~  
45 ~~are certified peace officers, county park rangers who are certified peace~~

~~officers, police officers who are certified peace officers and are employed by an Indian reservation police agency and fire fighters who are employed by an Indian reservation fire fighting agency~~ AN EMPLOYEE OF AN ELIGIBLE GROUP are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

25. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

26. "Service" means the last period of continuous employment of an employee by the employers prior to the employee's retirement or the employee's sixty-fifth birthday, whichever first occurs, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence which is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Any period during which a person was employed as a full-time paid fire fighter by a fire district pursuant to a contract with a corporation within that fire district shall be considered as service if it is part of the person's last period of continuous employment with that corporation in that fire district and the fire district has elected to treat the period as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

27. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

28. "System" means the public safety personnel retirement system established by this article.

29. "Temporary disability" means a physical or mental condition which the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and which was incurred in the performance of the employee's duty.

Sec. 3. Section 38-847, Arizona Revised Statutes, is amended to read:  
38-847. Local boards

A. The administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the university



of Arizona, Arizona state university, northern Arizona university, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department of law, ~~the department of administration~~, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation fire fighting agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairman, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.

2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairman.

3. For fire districts organized pursuant to section 48-804, the secretary-treasurer as chairman, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the secretary-treasurer, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.

B. Upon the taking effect of this system for an employer, the appointments and elections of board members shall take place with one elective and appointive board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.

C. Each member of a local board shall, within ten days after the member's appointment or election, SHALL take an oath of office that, so far as it devolves upon the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.

D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:

1           1. To decide all questions of eligibility and service credits, and  
2 determine the amount, manner and time of payment of any benefits under the  
3 system.

4           2. To prescribe procedures to be followed by claimants in filing  
5 applications for benefits.

6           3. To make a determination as to the right of any claimant to a  
7 benefit and to afford any claimant or the fund manager, or both, a right to a  
8 rehearing on the original determination.

9           4. To request and receive from the employers and from members such  
10 information as is necessary for the proper administration of the system and  
11 action on claims for benefits and to forward such information to the fund  
12 manager.

13           5. To distribute, in such manner as the local board determines to be  
14 appropriate, information explaining the system received from the fund  
15 manager.

16           6. To furnish the employer, the fund manager, and the legislature,  
17 upon request, with such annual reports with respect to the administration of  
18 the system as are reasonable and appropriate.

19           7. To receive and review the actuarial valuation of the system for its  
20 group of members.

21           8. To receive and review reports of the financial condition and of the  
22 receipts and disbursements of the fund from the fund manager.

23           9. To appoint medical boards as provided in section 38-859.

24           10. To sue and be sued to effectuate the duties and responsibilities  
25 set forth in this article.

26           E. A local board shall have no power to add to, subtract from, modify  
27 or waive any of the terms of the system, change or add to any benefits  
28 provided by the system or waive or fail to apply any requirement of  
29 eligibility for membership or benefits under the system.

30           F. A local board ~~shall~~, from time to time, SHALL establish and adopt  
31 such rules as it deems necessary or desirable for its administration. All  
32 rules and decisions of a board shall be uniformly and consistently applied to  
33 all members in similar circumstances.

34           G. Any action by a majority vote of the members of a local board which  
35 is not inconsistent with the provisions of the system shall be final,  
36 conclusive and binding upon all persons affected by it unless a timely  
37 application for a rehearing or appeal is filed as provided in this article.

38           H. A claimant or the fund manager may apply for a rehearing before the  
39 local board within the time period prescribed in this subsection. An  
40 application for a rehearing shall be filed in writing with a member of the  
41 local board or its secretary within sixty days after:

42           1. The applicant-claimant receives notification of the local board's  
43 original action by certified mail, by attending the meeting at which the  
44 action is taken or by receiving benefits from the system pursuant to the  
45 local board's original action, whichever occurs first.

1           2. The applicant-fund manager receives notification of the local  
2 board's original action by certified mail or by receipt of written directions  
3 from the local board pursuant to its original action, whichever occurs first.

4           I. A hearing before a local board on a matter remanded from the  
5 superior court is not subject to a rehearing before the local board.

6           J. Decisions of local boards are subject to judicial review pursuant  
7 to title 12, chapter 7, article 6.

8           K. When making a ruling, determination or calculation, the local board  
9 shall be entitled to rely upon information furnished by the employer, the  
10 fund manager, independent legal counsel,— or the actuary for the system.

11          L. Each member of a local board is entitled to one vote. A majority  
12 of the appointed and elected members is necessary for a decision by the  
13 members of a local board at any meeting of the local board.

14          M. The local board shall adopt such bylaws as it deems desirable. The  
15 local board shall elect a secretary who may, but need not, be a member of the  
16 local board. The secretary of the local board shall keep a record and  
17 prepare minutes of all meetings, forward the minutes to the fund manager  
18 within forty-five days after each meeting and forward all necessary  
19 communications to the fund manager.

20          N. The fees of the medical board and of local legal counsel and all  
21 other expenses of the local board necessary for the administration of the  
22 system shall be paid by the employer at such rates and in such amounts as the  
23 local board shall approve.

24          O. The local board shall issue directions to the fund manager  
25 concerning all benefits which are to be paid from the employer's account  
26 pursuant to the provisions of the fund. The local board shall keep on file,  
27 in such manner as it may deem convenient or proper, all reports from the fund  
28 manager and the actuary.

29          P. The local board and the individual members of the local board shall  
30 be indemnified from the assets of the employer's account in the fund against  
31 any and all liabilities arising by reason of any act, or failure to act, made  
32 in good faith pursuant to the provisions of the system, including expenses  
33 reasonably incurred in the defense of any claim relating to the act or  
34 failure to act.

35          Sec. 4. Section 41-790, Arizona Revised Statutes, is amended to read:

36          41-790. Definitions

37          In this article, unless the context otherwise requires:

38          1. "Building renewal" means major activities that involve the repair  
39 or reworking of a building and the supporting infrastructure that will result  
40 in maintaining a building's expected useful life. Building renewal does not  
41 include new building additions, new infrastructure additions, landscaping and  
42 area beautification, routine maintenance or demolition and removal of a  
43 building.

1        2. "Building system" means a group of buildings which together  
2 constitute a single unit for purposes of planning, land acquisition,  
3 construction or building renewal.

4        3. "Capital projects" means buildings, structures, facilities and  
5 areas constructed for the use or benefit of this state.

6        4. "Infrastructure" means nonbuilding improvements that directly  
7 support operating a facility that is listed in the annual building system  
8 such as utility delivery systems, roadway systems, external lighting systems,  
9 irrigation systems, sidewalks and parking lots.

10       5. "Land acquisition" means the procurement of real property by gift,  
11 grant, purchase, lease purchase, condemnation or other lawful means.

12       6. "SECURITY" MEANS SECURITY SERVICES RELATED TO BUILDING OPERATION  
13 AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT.

14       ~~6.~~ 7. "State capitol building" means:

15       (a) The original 1898 statehouse known as the state capitol museum.

16       (b) The 1919 state capitol wing and the 1938 state capitol justice  
17 addition known jointly as the legislative services wing.

18       (c) The house of representatives wing.

19       (d) The senate wing.

20       (e) The west wing known as the state capitol executive tower.

21       Sec. 5. Repeal

22       Sections 41-794 and 41-795, Arizona Revised Statutes, are repealed.

23       Sec. 6. Section 41-796, Arizona Revised Statutes, is amended to read:

24       41-796. Regulation of traffic and parking; monetary penalties;  
25                hearing; state traffic and parking control fund;  
26                definition

27       A. The department of administration may adopt and administratively  
28 enforce rules for the control of vehicles on state property with respect only  
29 to the following:

30       1. Maximum speed of vehicles.

31       2. Direction of travel.

32       3. Place, method and time of parking.

33       4. Nonparking areas.

34       5. Designation of special parking areas for state employees and the  
35 general public.

36       6. Prohibiting parking in vehicle emissions control areas as defined  
37 in section 49-541 of those vehicles which fail to comply with section 49-542.

38       B. The department shall adopt and administratively enforce rules  
39 requiring the designation of preferential parking areas, such as reserved,  
40 close-in or covered parking, to state employees with offices in vehicle  
41 emissions control areas as defined in section 49-541 who are car pool  
42 operators as defined in section 28-4032 or who drive vehicles powered by  
43 alternative fuel as defined in section 1-215.

1 C. The department may prescribe and collect reasonable monetary  
2 penalties for violations of the rules adopted pursuant to subsection A of  
3 this section.

4 D. The department shall:

5 1. Cause signs, markings and notices to be posted on the property for  
6 the regulation of vehicles.

7 2. Maintain parking lots and structures.

8 ~~E. Police personnel shall be authorized to issue a notice to appear~~  
9 ~~for an alleged violation in the form adopted by the department directing a~~  
10 ~~person accused of violating a rule for control of vehicles on state property~~  
11 ~~adopted pursuant to this section to appear at a designated place to contest~~  
12 ~~the allegation of violation or to admit the violation and pay a~~  
13 ~~penalty. Upon~~ ON THE failure of a person served with a notice under WHO IS  
14 ISSUED A CITATION FOR A VIOLATION OF A RULE ADOPTED PURSUANT TO this section  
15 to appear, the administrative law judge may proceed to determine whether a  
16 violation has occurred and, if so, the penalty to be imposed.

17 F. Penalties ~~which~~ THAT are imposed pursuant to this section and ~~which~~  
18 THAT are not paid within the time prescribed by the administrative law judge  
19 may be collected by an action filed with the justice court.

20 G. A state traffic and parking control fund is established consisting  
21 of monetary penalties collected pursuant to this section. The department  
22 shall administer the fund. Monies in the fund are continuously appropriated  
23 and are exempt from the provisions of section 35-190 relating to lapsing of  
24 appropriations.

25 H. All monetary penalties collected by the department for violations  
26 of the rules adopted pursuant to subsection A of this section shall be  
27 deposited in the state traffic and parking control fund.

28 I. Except as provided in section 41-1092.08, subsection H, a person  
29 who has received a final administrative ruling concerning a penalty imposed  
30 on the person as a result of a violation of a rule adopted pursuant to this  
31 section may have that ruling reviewed by the superior court in the county in  
32 which the institution involved is located pursuant to title 12, chapter 7,  
33 article 6.

34 J. ~~As used in~~ FOR THE PURPOSES OF this section, "state property" means  
35 property ~~which~~ THAT is the responsibility of the department under section  
36 41-791 and property ~~which~~ THAT is the responsibility of the speaker of the  
37 house of representatives or the president of the senate under section  
38 41-1304.05.

39 Sec. 7. Section 41-1304, Arizona Revised Statutes, is amended to read:

40 41-1304. Powers and duties

41 A. The legislative council shall:

42 1. Provide bill drafting, research and other services to the  
43 legislature deemed necessary or advisable by the council to improve the  
44 quality of legislation and to insure full participation by the legislative

1 branch in determining and reviewing policy and the administration of state  
2 affairs.

3 2. Adopt rules and formulate policies for the administration of this  
4 article and for the conduct of the affairs of the council.

5 3. Appoint ~~such~~ clerical, stenographic, technical and professional  
6 assistants deemed necessary or advisable to carry out the provisions of this  
7 article, and fix their compensation and prescribe their powers and duties.

8 4. Consult with state departments or officers engaged in carrying out  
9 construction programs authorized by law, and investigate the conduct of the  
10 programs, with particular reference to the plans for and type of  
11 construction.

12 5. Maintain a legislative reference library, containing legal,  
13 statistical and descriptive data and authoritative philosophical and  
14 scientific treatises on current and potential legislative subjects.

15 6. Procure information at the request of members of the legislature or  
16 state officers on any legislative subject.

17 7. Prepare or revise bills and other legislative measures for members  
18 or committees of the legislature and, on request of a member of the  
19 legislature, for state officers and agencies.

20 8. Prepare and issue styles and forms for drafting bills, amendments  
21 and other legislative measures for the use of the legislature, state officers  
22 and persons interested in drafting amendments and bills or measures for  
23 introduction in the legislature. The styles and forms for drafting  
24 amendments shall be developed and adopted in consultation and cooperation  
25 with the senate and the house of representatives.

26 9. Prepare and file with the secretary of state, not later than sixty  
27 days preceding the regular primary election, an analysis of the provisions of  
28 each ballot proposal of a measure or proposed amendment.

29 10. Provide and maintain an office for the advocate for private  
30 property rights pursuant to article 1.1 of this chapter.

31 B. The legislative council may purchase, lease and otherwise acquire  
32 land and buildings and make improvements to land and buildings it acquires or  
33 uses for the purpose of providing suitable facilities for the use of the  
34 legislative department. The council may obtain operational, AND maintenance  
35 and security assistance for any legislative facilities without charge from  
36 the department of administration, MAY OBTAIN SECURITY ASSISTANCE FROM THE  
37 DEPARTMENT OF PUBLIC SAFETY, may employ personnel to discharge ~~such~~  
38 OPERATIONAL, MAINTENANCE AND SECURITY functions or may contract for outside  
39 services payable from council appropriations.

40 Sec. 8. Section 41-1304.05, Arizona Revised Statutes, is amended to  
41 read:

42 41-1304.05. State capitol building areas and other facilities;  
43 jurisdiction; maintenance; definition

44 A. The legislative council is responsible for the allocation of space,  
45 operation, alteration, renovation and control of the following:

1           1. The original 1898 statehouse area of the state capitol building  
2 known as the state capitol museum.

3           2. The 1919 wing and the 1938 justice addition of the state capitol  
4 building known jointly as the legislative services wing.

5           3. The public records retention center and the grounds adjacent to it.

6           4. Any other facility acquired for legislative use and placed under  
7 legislative council jurisdiction and the grounds adjacent to it.

8           5. Except as provided in subsections B and C of this section, the  
9 grounds adjacent to the state capitol museum, the legislative services wing,  
10 the house of representatives wing and the senate wing and comprising the area  
11 east of the state capitol executive tower with a northern boundary of west  
12 Adams street, an eastern boundary of Seventeenth avenue and a southern  
13 boundary of west Jefferson street in Phoenix, Arizona.

14          B. The speaker of the state house of representatives is responsible  
15 for the following:

16           1. The allocation of space, operation, alteration, renovation and  
17 control of the house of representatives wing of the state capitol building.

18           2. The allocation of space and control of the parking lot area  
19 adjacent to the house of representatives wing, the parking lot area with a  
20 southern boundary of west Adams street, an eastern boundary of Seventeenth  
21 avenue and a northern boundary of west Monroe street in Phoenix, Arizona and  
22 comprised of one hundred five parking spaces and the southeast portion of the  
23 parking lot area with a southern boundary of west Monroe street and an  
24 eastern boundary of Seventeenth avenue in Phoenix, Arizona and comprised of  
25 fifty parking spaces.

26          C. The president of the state senate is responsible for the following:

27           1. The allocation of space, operation, alteration, renovation and  
28 control of the senate wing of the state capitol building.

29           2. The allocation of space and control of the parking lot area  
30 adjacent to the senate wing and the southwest portion of the parking lot area  
31 of the Wesley Bolin memorial plaza east of the state capitol building and  
32 comprised of one hundred twenty parking spaces.

33          D. The director of the department of administration is responsible for  
34 the maintenance of the entire state capitol building and the public records  
35 retention center subject to section 41-1304.

36          E. FOR THE PURPOSES OF THIS SECTION, "CONTROL" INCLUDES SECURITY  
37 SERVICES.

38          Sec. 9. Section 41-1712, Arizona Revised Statutes, is amended to read:  
39 41-1712. Organization of department; divisions

40          A. The department shall consist of the following divisions:

41           1. Arizona highway patrol.

42           2. Narcotics enforcement and criminal investigation.

43           3. Scientific criminal analysis.

44           4. Training and education.

45           5. CAPITOL POLICE.

1 B. The department may establish district headquarters and stations at  
2 various places in the state, using existing facilities wherever possible,  
3 with the personnel and equipment necessary for the proper functioning and  
4 operation of the headquarters and stations.

5 C. The director may establish other divisions or reserves or  
6 reorganize or consolidate the department.

7 Sec. 10. Section 41-1713, Arizona Revised Statutes, is amended to  
8 read:

9 41-1713. Powers and duties of director; authentication of  
10 records

11 A. The director of the department shall:

12 1. Be the administrative head of the department.

13 2. Subject to the merit system rules, appoint, suspend, demote,  
14 promote or dismiss all other classified employees of the department upon the  
15 recommendation of their respective division superintendent. The director  
16 shall determine and furnish the law enforcement merit system council  
17 established by section 41-1830.11 with a table of organization. The  
18 superintendent of each division shall serve at the concurrent pleasure of the  
19 director and the governor.

20 3. EXCEPT AS PROVIDED IN SECTIONS 12-119, 41-1304 AND 41-1304.05,  
21 EMPLOY OFFICERS AND OTHER PERSONNEL AS THE DIRECTOR DEEMS NECESSARY FOR THE  
22 PROTECTION AND SECURITY OF THE STATE BUILDINGS AND GROUNDS IN THE  
23 GOVERNMENTAL MALL DESCRIBED IN SECTION 41-1362, STATE OFFICE BUILDINGS IN  
24 TUCSON AND PERSONS WHO ARE ON ANY OF THOSE PROPERTIES. DEPARTMENT OFFICERS  
25 MAY MAKE ARRESTS AND ISSUE CITATIONS FOR CRIMES OR TRAFFIC OFFENSES AND FOR  
26 ANY VIOLATION OF A RULE ADOPTED UNDER SECTION 41-796. FOR THE PURPOSES OF  
27 THIS PARAGRAPH, SECURITY DOES NOT MEAN SECURITY SERVICES RELATED TO BUILDING  
28 OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT OF  
29 ADMINISTRATION.

30 ~~3.~~ 4. Make rules necessary for the operation of the department.

31 ~~4.~~ 5. Annually submit a report of the work of the department to the  
32 governor and the legislature, or more often if requested by the governor or  
33 the legislature.

34 ~~5.~~ 6. Appoint a deputy director with the approval of the governor.

35 ~~6.~~ 7. Adopt an official seal which shall contain the words  
36 "department of public safety" encircling the seal of this state as part of  
37 its design.

38 ~~7.~~ 8. Investigate, on receipt, credible evidence that a licensee or  
39 registrant has been arrested for, charged with or convicted of an offense  
40 that would preclude the person from holding a license or registration  
41 certificate issued pursuant to title 32, chapter 26.

42 ~~8.~~ 9. Cooperate with the Arizona-Mexico commission in the governor's  
43 office and with researchers at universities in this state to collect data and  
44 conduct projects in the United States and Mexico on issues that are within  
45 the scope of the department's duties and that relate to quality of life,



1 trade and economic development in this state in a manner that will help the  
2 Arizona-Mexico commission to assess and enhance the economic competitiveness  
3 of this state and of the Arizona-Mexico region.

4 ~~9-~~ 10. Adopt and administer the breath, blood or other bodily  
5 substances test rules pursuant to title 28, chapter 4.

6 ~~10-~~ 11. Develop procedures to exchange information with the department  
7 of transportation for any purpose related to sections 28-1324, 28-1325,  
8 28-1326, 28-1462 and 28-3318.

9 ~~11-~~ 12. Collaborate with the state forester in presentations to  
10 legislative committees on issues associated with wildfire prevention,  
11 suppression and emergency management as provided by section 37-622,  
12 subsection B.

13 B. The director may:

14 1. Issue commissions to officers of the department.

15 2. Request the cooperation of the utilities, communication media and  
16 public and private agencies and any sheriff or other peace officer in any  
17 county or municipality, within the limits of their respective jurisdictions  
18 when necessary, to aid and assist in the performance of any duty imposed by  
19 this chapter.

20 3. Cooperate with any public or private agency or person to receive or  
21 give necessary assistance and may contract for such assistance subject to  
22 legislative appropriation controls.

23 4. Utilize the advice of the board and cooperate with sheriffs, local  
24 police and peace officers within the state for the prevention and discovery  
25 of crimes, the apprehension of criminals and the promotion of public safety.

26 5. Acquire in the name of the state, either in fee or lesser estate or  
27 interest, any real or personal property ~~which~~ THAT the director considers  
28 necessary for the department's use, by purchase, donation, dedication,  
29 exchange or other lawful means. All acquisitions of personal property  
30 pursuant to this paragraph shall be made as prescribed in chapter 23 of this  
31 title unless otherwise provided by law.

32 6. Dispose of any property, real or personal, or any right, title or  
33 interest therein, when the director determines that such property is no  
34 longer needed or necessary for the department's use. Disposition of personal  
35 property shall be as prescribed in chapter 23 of this title. The real  
36 property shall be sold by public auction or competitive bidding after notice  
37 published in a daily newspaper of general circulation, not less than three  
38 times, two weeks ~~prior to~~ BEFORE the sale and subject to the approval of the  
39 director of the department of administration. When real property is sold, it  
40 shall not be sold for less than the appraised value as established by a  
41 competent real estate appraiser. Any ~~funds~~ MONIES derived from the disposal  
42 of real or personal property shall be deposited in the Arizona highway patrol  
43 fund as authorized by section 41-1752, subsection B, paragraph 6.

1           7. Sell, lend or lease personal property directly to any state, county  
2 or local law enforcement agency. Such personal property may be sold or  
3 leased at a predetermined price without competitive bidding. Any state,  
4 county or local law enforcement agency receiving such property may not resell  
5 or lease such property to any person or organization except for educational  
6 purposes.

7           8. Dispose of surplus property by transferring such property to the  
8 department of administration for disposition to another state budget unit or  
9 political subdivision if such state budget unit or political subdivision is  
10 not a law enforcement agency.

11           9. Lease or rent personal property directly to any state law  
12 enforcement officer for the purpose of traffic safety, traffic control or  
13 other law enforcement related activity.

14           10. Sell for one dollar, without public bidding, the department issued  
15 handgun or shotgun to a department officer on duty related retirement  
16 pursuant to title 38, chapter 5, article 4. Any funds MONIES derived from  
17 the sale of the handgun or shotgun to the retiring department officer shall  
18 be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway  
19 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

20           11. Conduct state criminal history records checks for the purpose of  
21 updating and verifying the status of current licensees or registrants who  
22 have a license or certificate issued pursuant to title 32, chapter 26. The  
23 director shall investigate, upon receipt, credible evidence that a licensee  
24 or registrant has been arrested for, charged with or convicted of an offense  
25 that would preclude the person from holding a registration certificate issued  
26 pursuant to title 32, chapter 26.

27           12. Grant a maximum of two thousand eighty hours of industrial injury  
28 leave to any sworn department employee who is injured in the course of the  
29 employee's duty and whose work-related injury prevents the employee from  
30 performing the normal duties of that employee's classification. This  
31 industrial injury leave is in addition to any vacation or sick leave earned  
32 or granted to the employee and does not affect the employee's eligibility for  
33 any other benefits, including workers' compensation. On retirement or  
34 separation from the department or on reclassification to civilian status, the  
35 employee forfeits any unused industrial injury leave and is not eligible for  
36 payment pursuant to section 38-615. Subject to approval by the law  
37 enforcement merit system council, the director shall adopt rules and  
38 procedures regarding industrial injury leave hours granted pursuant to this  
39 paragraph.

40           C. The director and any employees of the department which THAT the  
41 director designates in writing may use the seal adopted pursuant to  
42 subsection A, paragraph 6 of this section to fully authenticate any  
43 department records and copies of these records. These authenticated records  
44 or authenticated copies of records shall be judicially noticed and shall be

1 received in evidence by the courts of this state without any further proof of  
2 their authenticity.

3       Sec. 11. Termination of department of administration local  
4               board; transfer of personnel, records and equipment;  
5               transfer of retirement assets; study

6       A. The department of administration public safety personnel retirement  
7 system local board is terminated. The department of administration shall  
8 transfer the records of employees who are currently members of the public  
9 safety personnel retirement system to the department of public safety public  
10 safety personnel retirement system local board.

11       B. All equipment, records, furnishings, vehicles and other property,  
12 all data and investigative findings and all appropriated and nonappropriated  
13 monies that remain unexpended and unencumbered on the effective date of this  
14 act that relate to the capitol police are transferred from the department of  
15 administration to the department of public safety. All equipment, records,  
16 furnishings, vehicles and other property that are transferred pursuant to  
17 this subsection shall not be upgraded at the time of transfer unless the  
18 legislature approves of the upgrade.

19       C. All personnel who are under the state personnel system and employed  
20 by the department of administration as capitol police personnel are  
21 transferred to the same positions and pay classifications in the respective  
22 administrative units of the department of public safety on the effective date  
23 of this act, unless the law enforcement merit system council determines that  
24 the transferred personnel should be transferred to other positions and pay  
25 classifications.

26       D. The administrator of the public safety personnel retirement system  
27 shall transfer the assets in the public safety personnel retirement system  
28 department of administration account to the public safety personnel  
29 retirement system department of public safety account.

30       E. The law enforcement merit system council shall conduct a study by  
31 December 31, 2005 of the positions and pay classifications of all personnel  
32 who are under the state personnel system and employed by the department of  
33 administration as capitol police personnel and who are transferred to the  
34 department of public safety pursuant to this section. The council shall  
35 determine the appropriate position and pay classification for each  
36 transferred employee and shall report this information to the joint  
37 legislative budget committee.




HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

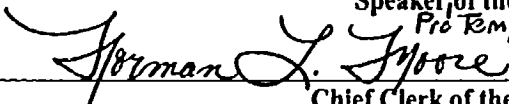
May 12, 2005.

by the following vote: 41 Ayes,

8 Nays, 11 Not Voting



Speaker of the House  
*Pro Tempore*



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12th day of May 2005

at 4:15 o'clock P M.

  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**VETO**

\_\_\_\_\_  
Governor of Arizona

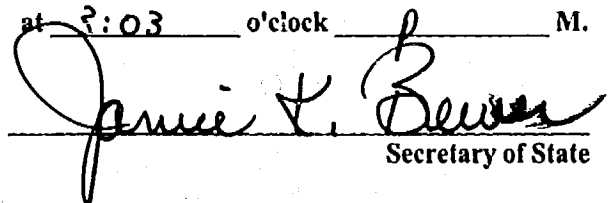
H.B. 2404

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20th day of May, 2005,

at 3:03 o'clock P M.

  
Secretary of State

Passed the House February 21, 2005,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate May 11, 2005,

by the following vote: 17 Ayes,

12 Nays, 1 Not Voting

[Signature]  
President of the Senate

Charmian Bellington  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

H.B. 2404

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State